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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,983	09/09/2003	Stephanie Myrick	DC-05301	1299
33438	7590	03/12/2010		
HAMILTON & TERRILE, LLP				
P.O. BOX 203518				
AUSTIN, TX 78720				
EXAMINER				
STERRETT, JONATHAN G				
ART UNIT		PAPER NUMBER		
3623				
NOTIFICATION DATE		DELIVERY MODE		
03/12/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tmunoz@hamiltontertile.com

### **ADVISORY ACTION**

1. This Advisory Action is responsive to 24 February 2010.
2. The applicant argues that the performing of freight claims by a sender at a sender location distinguishes over the prior art.

The examiner respectfully disagrees.

The applicant alleges that the claimed feature of managing freight claims by a sender at a sender location (i.e. the manufacturer) has advantages not provided elsewhere. Specifically the applicant states: "By analyzing freight claims at the sender or manufacturer location, the manufacturer or sender has access to detailed delivery information, including the product and customer, in a manner that is not available from processing performed at the shipper.". However in response to applicant's argument that there flow certain advantages from processing or management of claims at a sender location, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

The differences here, that is, where the claims are managed, is an intended use limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In this case the claim recites that the customer interface is at the sender location. The location of the customer interface does not make a patentable distinction based on where it is located. For example, if a computer desktop PC is located next to the dock in shipping and receiving, this would not patentably distinguish over a computer desktop PC that is located in the accounts payable section of accounting at corporate headquarters. All other things being equal, the computer desktop PC is still a computer desktop PC, regardless of where it is located. The structural and functional aspects of the computer desktop PC remain the same.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 3-7-2010  
/Jonathan G. Sterrett/  
Primary Examiner, Art Unit 3623